

Exhibit D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

)
GEORGE MOORE, VIRGINIA CARTER,)
JAMES JILEK, FRANCIS JAYE, and)
SEAN MADELMAYER, on behalf of)
themselves and all others)
similarly situated,) No. 4:18-cv-01962-SEP
)
Plaintiffs,)
)
vs.)
)
COMPASS GROUP USA, INC., D/B/A)
CANTEEN,)
)
Defendant.)
_____)

VIDEOTAPED DEPOSITION OF JAMES JILEK
Los Angeles, California
Tuesday, March 21, 2023
Volume I

Reported by:
JILL GLANTZ
CSR No. 11341
Job No. 5781012

GEORGE MOORE, VIRGINIA CARTER,
JAMES JILEK, FRANCIS JAYE, and
SEAN MADELMAYER, on behalf of
themselves and all others
similarly situated,

Plaintiffs,

vs.

COMPASS GROUP USA, INC., D/B/A
CANTEEN,

Defendant.

Videotaped deposition of JAMES JILEK,
Volume I, taken on behalf of Defendants, at 10100
Santa Monica Boulevard, Los Angeles, California,
beginning at 2:01 p.m. and ending at 4:48 p.m. on
Tuesday, March 21, 2023, before JILL GLANTZ,
Certified Shorthand Reporter No. 11341.

1 connection with this case?

2 A I was referred to the Counsel by an office
3 mate, Justin.

4 Q Is that "Justin Regus"?

5 A Correct.

6 Q Can you spell Mr. Regus's last name?

7 A I don't know the correct spelling of his last
8 name.

9 Q What did Mr. Regus tell you when he referred
10 you to Counsel?

11 A He informed me, one, that the machine was
12 adding fees without advertising them. And he just
13 told me -- then he referred me to his lawyers.

14 Q Was Mr. Regus -- and by the "lawyers," do you
15 mean Mr. Jenkins?

16 A At that time, the first person would have
17 been Richard Cornfeld.

18 Q So Mr. Regus gave you the contact information
19 for Mr. Cornfeld?

20 A Yes. Or his office.

21 Q Do you know if Mr. Regus was a client of
22 Mr. Cornfeld?

23 A No.

24 Q So you said that Mr. Regus informed you that
25 the machine was adding fees without advertising

1 them. Are you referring to the vending machines in
2 your office?

3 A Yes.

4 Q What do you recall -- what else do you recall
5 about Mr. Regus telling you this information?

6 A I don't recall anything else.

7 Q Do you recall when Mr. Regus told you about
8 the fees?

9 A I recall it would have been before mid-2019.

10 Q So before mid-2019. You think in the first
11 quarter of 2019?

12 A It could have been first quarter or second
13 quarter.

14 Q First or second quarter. Do you know if
15 Mr. Regus was using the vending machines in your
16 office in the first or second quarter of 2019?

17 A I don't know anything about his usage of the
18 vending machines.

19 Q How did the conversation come up with
20 Mr. Regus of the vending machine fees?

21 A He brought it up to me while I was in my
22 office.

23 Q So you're in your office. Can you kind of
24 describe the scene or paint the picture for me?

25 A The physical layout of the office?

1 Q Sure.

2 A Okay. It's an open office space. I'm
3 sitting at my desk. He points out that the machine
4 is charging fees that are not advertised.

5 Q Does he walk over to your desk, or does he
6 have a desk nearby yours?

7 A He has a desk nearby, but he walked by my
8 desk.

9 Q And Mr. Regus is someone -- did you see him
10 most days in the office?

11 A I don't know if I would say "most days." I
12 would -- I would see him from time to time. Say,
13 weekly.

14 Q Okay. And so you -- would you say you had
15 conversations with him weekly?

16 A Not deep conversations, no.

17 Q Was this the first time that the two of you
18 had discussed the vending machines?

19 A Yes.

20 Q Was it the only time you two discussed the
21 vending machines?

22 A No.

23 Q When -- well --

24 A It was the first time, and he would bring it
25 up again.

1 it should be. This proved to me that it was
2 charging more than it should be.

3 Q So, I'm sorry, so Mr. Regus told you that the
4 machines were charging more than the display?

5 A Yes.

6 Q Is that right? And you decided to test it
7 for yourself?

8 A This was after I was in contact with my
9 lawyers.

10 Q Okay. I just want to make sure I understand
11 the timeline.

12 A So it wasn't purely for myself.

13 Q I'm sorry?

14 A Okay.

15 Q Can you repeat -- I just didn't hear you.
16 Can you repeat what you said?

17 A I just want to be clear, it wasn't purely for
18 myself because I was already in contact with the
19 lawyers. So it was for myself and for my lawyers.

20 Q Understood. Okay. I just want to make sure
21 I'm getting the timeline clear. So you spoke to
22 Mr. Regus in June, you think, or July of 2019?

23 A Yes, I spoke to Mr. Regus. I spoke to the
24 lawyers. Then we did the test case.

25 Q And the test case was the -- was a purchase

1 when?

2 A That would have been mid-2019 again, probably
3 July.

4 Q Probably July. Was it the July 26th purchase
5 that's described in the Complaint?

6 A Again, I don't recall the exact date. But to
7 the best of my knowledge, yes.

8 Q Okay. And we'll look at the Complaint again
9 in a little bit. Sorry. I got sidetracked. We
10 were talking about your responsibilities as a class
11 representative. Other than preparing for this
12 deposition, did you meet with your lawyers ever in
13 connection with this case?

14 A Could you repeat that?

15 Q Sure. Other than your deposition prep that
16 you've been doing for the past couple of weeks, did
17 you ever meet with your lawyers to discuss this
18 case?

19 A No. There was the initial discussion in
20 2019, and then there was pre-deposition meetings.

21 Q Prior to the deposition preparation, did you
22 review any filings related to this case?

23 A Can you repeat the question again?

24 Q Sure. So other than your deposition meeting
25 and your deposition prep sessions, did you ever

1 Q And at that address, there are two vending
2 machines; right?

3 A Yes.

4 Q One for snacks and one for beverages?

5 A Yes.

6 Q Which one did you make purchases from?

7 A I would have used both.

8 Q Other than the machines at your office, do
9 you know whether you've made purchases from any
10 other Compass vending machines?

11 A No.

12 Q Can you approximate how many purchases you
13 made from these two machines at your work?

14 A A number, no.

15 Q Would you say you made more than 50 purchases
16 since you started working there?

17 A I couldn't give a total number.

18 Q Can you estimate, give me a ballpark, more or
19 less than 100?

20 A Less than 100.

21 Q Less than 50?

22 A That would be too fine grain for me to be
23 comfortable.

24 Q Okay. And what did you typically purchase
25 when you made purchases from those vending machines?

1 A Could be cookies. Could be water. Either
2 kind of things.

3 Q Okay. How did you typically pay for those
4 purchases?

5 A By credit card.

6 Q Why use a credit card instead of cash?

7 A It's much more convenient, and I don't always
8 carry cash.

9 Q Me neither. Fair enough. Let's talk about
10 the credit card purchases, since that's what we're
11 here to talk about. You're not sure when exactly
12 you made your first purchase from these machines;
13 right?

14 A Yeah, not an exact date.

15 Q Was it in 2017?

16 A My estimate is yes.

17 Q Typically, would you make a purchase once a
18 week from the vending machines?

19 A My best guess of cadence would be I would
20 purchase it at least, say, per month --

21 Q Once per month?

22 A It could be once per month. I can't -- I
23 might have bought in clusters as well. So, again,
24 this is my best estimate of cadence.

25 Q Sorry. Your best estimate is that it was

1 once a month, or that it might have been different
2 depending on the month?

3 A It might have been different depending on the
4 month, but average would be one month, estimate.

5 Q Okay. After Mr. Regus told you about the
6 fees -- actually, back up. Did Mr. Regus tell you
7 how much more you were paying for a product over the
8 display price when he told you about fees in 2019?

9 A I don't recall him giving me the amount that
10 I was paying over the display price. I just
11 remember he said I was paying over.

12 Q Do you know today how much you were being
13 charged over the display price?

14 A Yes, ten cents.

15 Q And do you recall generally when you learned
16 that it was ten cents more than the display price?

17 A Yeah, the test case.

18 Q The test case. Okay. And so after you
19 performed the test case, did you go back and talk to
20 Justin about what had happened?

21 A I don't recall.

22 Q Did you ever have any additional discussions
23 with Justin about the vending machines?

24 A Justin asked, "How is the case going?"

25 Q When did he do that?

1 the test case?

2 A No.

3 Q Did you help prepare any of the Complaints
4 that have been filed in your name against Compass?

5 A No. I provided information, like, bank
6 records.

7 Q What bank records did you provide?

8 A My own.

9 Q Your own. And when did you provide your bank
10 records to Counsel?

11 A Mid-2019, and recently I provided further
12 records going back to 2017.

13 Q So you provided a subset of records in 2019?

14 A Yes.

15 Q And do you know generally what the time range
16 of those records that you provided in 2019 were for?

17 A I provided records for the test case, and I
18 provided an example, I think it would be early 2019,
19 where it was being charged before I even talked to
20 my lawyers or knew I was being overcharged.

21 Q Okay. So you provided records from prior to
22 finding out about the fee being charged and also the
23 records relating to your test case?

24 A Yes.

25 Q And those were the documents that you

1 provided in 2019?

2 A Yes.

3 Q And more recently, you provided additional
4 documents?

5 A Yes.

6 Q And those documents go back to how long?

7 A 2017.

8 Q And to your knowledge, have you provided bank
9 records for all of your credit card purchases of --
10 from the vending machines?

11 A No. Because there could have been cases -- I
12 provided 2017 to 2019. There could be purchases
13 after.

14 Q Have you made a purchase from either of these
15 machines after August 2019?

16 A Yes.

17 Q You have?

18 A Yes.

19 Q Okay. And were you asked to obtain the
20 documents from later purchases?

21 A No.

22 Q Could you get those bank records if you were
23 asked?

24 A Yes.

25 Q I am going to request those bank records.

1 Q But you recognize this as the initial
2 Complaint that was filed in 2019 on your behalf?

3 A Yes. I recognize the evidence I provided,
4 and I remember my lawyers showing me the Complaint.

5 Q And so let's go to Paragraph 16. Read that
6 paragraph to yourself and then let me know when I
7 can ask you a question.

8 A Okay. "On or about July 26, 2000- --

9 Q Sorry. You don't have to read it aloud. I
10 was unclear. I apologize. Read it to yourself, and
11 let me know when I can ask you a question about its
12 contents.

13 A Okay. Okay.

14 Q Okay. So this paragraph discusses two
15 purchases that you made from the vending machines at
16 your work; right?

17 A Yes.

18 Q Are these the test purchases that you were
19 referring to earlier?

20 A Yes.

21 Q Okay. And so at the time that you made these
22 purchases, you had already spoken to Justin Regus
23 about fees that were being applied to purchases made
24 with credit cards above the display price?

25 A Yes. I had already talked to him.

1 Q So he had told you that additional fees were
2 being charged when you made a purchase with a credit
3 card from the vending machines?

4 A Yes.

5 Q And at the time that you made these test
6 purchases, you had already spoken with Mr. Cornfeld?

7 A Yes.

8 Q But you're not sure whether or not you had
9 signed an Agreement for Mr. Cornfeld to represent
10 you at the time of this test -- of these test
11 purchases?

12 A Yeah. I don't know the specifics on the
13 dates of when I signed the Agreement.

14 Q So you don't know if the Agreement was signed
15 before you made these test purchases?

16 A Correct.

17 Q And do you see a reference to "1739 East
18 Holly"?

19 A Yes.

20 Q Did you provide that address to your lawyers?

21 A Not that I know of.

22 Q Did you provide them any address of -- that
23 related to where you were making purchases from
24 vending machines?

25 A Not that I know of.

1 Q Do you know where this address came from?

2 A No.

3 Q Okay. Do you know if this is, in fact, the
4 address of your business, of your place of work? I
5 apologize.

6 A Yeah. I know the place of work is on East
7 Holly.

8 Q But do you know if 1739 is the number of the
9 address?

10 A I know that in my pre-deposition, there was
11 an error on the address number. So I believe it's
12 1730.

13 Q Got it. So 1739 East Holly is not the
14 correct address, and you know that it's 1730 East
15 Holly?

16 A Yes. I believe that was simply a typo.

17 Q Okay. Do you know why -- strike that.

18 This Complaint only discusses two purchases
19 that you made from the vending machines; right?

20 MR. JENKINS: Objection. Legal contention.
21 Go ahead.

22 THE WITNESS: Can you repeat the question?
23 Sorry.

24 MS. MUELLER: Sorry. Can you repeat the
25 question?

1 (The record was read as follows:

2 "Question: This Complaint only
3 discusses two purchases that you
4 made from the vending machines;
5 right?")

6 THE WITNESS: I haven't read the full
7 Complaint, but within the context of this paragraph,
8 yes.

9 BY MS. MUELLER:

10 Q Do you know why the purchases that you made
11 earlier in 2017, 2018, 2019 aren't included in this
12 Complaint?

13 A No. I didn't write the Complaint.

14 Q And if you want to flip the page and take a
15 look at Paragraph 17 for me.

16 A Okay.

17 Q Paragraph 17 also describes the test
18 purchases; right?

19 A Yes, to the best of my knowledge.

20 Q And there's a box underneath Paragraph 17.
21 Do you know what that is, what the image is?

22 A Yes. Those are selections from my credit
23 card records.

24 Q And so the first line in that image says
25 "August 14, 2019, Canteen L.A." and then has a phone

1 Q Those are the test purchases?

2 A Yes.

3 Q This Complaint does not mention purchases
4 that you made prior to your discussion with Justin
5 Regus; right?

6 MR. JENKINS: Objection. Legal contention.
7 Go ahead.

8 THE WITNESS: I don't know the full scope of
9 the Complaint. I only -- I recognize this area.
10 But there's other areas of this Complaint --

11 BY MS. MUELLER:

12 Q I'm asking about these paragraphs.

13 A Okay. Yeah, it doesn't include those.

14 Q And it doesn't include any information about
15 purchases you made after August 14th, 2019; right?

16 A Not that I see.

17 Q Okay. Do you know what remedies are being
18 sought in this Complaint?

19 A No.

20 Q Do you know if Defendants have filed any
21 motions in this litigation?

22 A No.

23 Q Do you know if Defendants filed one or more
24 motions to dismiss this action?

25 A No.

1 THE WITNESS: When you say -- owed to me
2 personally? Or --

3 BY MS. MUELLER:

4 Q Let's start there.

5 A Okay. I would say at minimum, I'm owed the
6 misrepresentation. I think, you know, this is for a
7 judge to decide what would be the additional damages
8 to discourage this kind of behavior in the future.
9 But I would say at minimum, it's the monetary -- the
10 misrepresented amount, the ten cents per purchase.
11 But I would say there's more damages that are due.

12 Q And what are those additional or "more
13 damages" that are due?

14 A I would say it should be proportional to, you
15 know, the amount that the company made, and a judge
16 can look at that. I don't know the numbers of how
17 much the company was able to make from these
18 misrepresentations.

19 Q Would knowing that you were paying ten cents
20 more for the ability to use your credit card
21 dissuade you from using the vending machines?

22 A No. The ten cents was not a large number.

23 Q And you said you did continue to make
24 purchases from the vending machines after you knew
25 about the charge?

1 A Correct.

2 Q Let's look at another document. This is
3 Jilek Exhibit 9.

4 (Exhibit 9 was marked for
5 identification.)

6 BY MS. MUELLER:

7 Q And I will represent to you that it is a
8 document that was produced by the Plaintiffs in
9 connection with this lawsuit.

10 Do you see about two-thirds of the way down
11 the picture, there is a sticker that says,

12 "The prices displayed on this machine are ten
13 cents lower than the retail price and are
14 available on cash purchases only"?

15 A Yes.

16 Q Do you recall seeing a sticker like that on
17 the machines at your workplace?

18 MR. JENKINS: Objection. Vague.

19 Go ahead.

20 THE WITNESS: Can you clarify when?

21 BY MS. MUELLER:

22 Q Well, let's start with ever. Have you ever
23 seen a sticker like that at the vending machines at
24 your workplace?

25 A Okay. I don't recall ever seeing a sticker

1 Q Did he ever tell you whether he was
2 considering filing a Complaint?

3 A No.

4 Q Why do you think Mr. Regus gave you his
5 contact information for Mr. Cornfeld?

6 A I do not know. I know that he told me about
7 the -- that I was -- that -- the mistake in
8 advertising the charges or the intentional error.
9 And I know he gave me Mr. Cornfeld's reference, and
10 that's it.

11 Q Do you know if Mr. Regus spoke to
12 Mr. Cornfeld?

13 A I don't know.

14 Q Why did you tell your two coworkers about the
15 ten cent charge?

16 A Simply to make them aware of the charge.

17 Q Okay. Let's flip to Jilek 15.

18 Okay. This is -- this reflects a purchase
19 that you made from the vending machines on July 26,
20 2019. Is that right?

21 A Yes.

22 Q This is one of the test purchases?

23 A Yes, I believe so.

24 Q And this purchase was made after you were
25 told by Mr. Regus that the machines were charging

1 ten cents for the privilege of using a credit card?

2 A Yes.

3 Q Okay. So at the time you made this purchase,
4 you knew that you were going to be charged ten cents
5 more than the price listed?

6 A Correct.

7 Q Let's take a look at Jilek 16.

8 What is shown on this page?

9 A This could just be a regular purchase, not
10 related to the test case.

11 Q Previously, you told me that you made two
12 test purchases; right? One on July 26th and the
13 other on August 14th?

14 A Yes.

15 Q And so this is a bank record from
16 August 14th --

17 A Yes, yes. Sorry.

18 MR. JENKINS: Let her finish. Sorry to
19 interrupt you.

20 THE WITNESS: Okay.

21 BY MS. MUELLER:

22 Q So it's really difficult. I totally
23 understand. So this is a -- this document reflects
24 the purchase that you made at the vending machine on
25 August 14th; right?

1 A Yes. So August 14th, yes. That was one of
2 the test cases. So this would be test-case related.
3 Sorry.

4 Q And you knew on August 14th when you made
5 this purchase that you would be charged ten cents
6 for using your credit card?

7 A Yes.

8 Q I could ask you about every purchase in this
9 document, or I can ask you this question: Do the
10 first 18 pages of this document reflect only
11 purchases made from the vending machine at your
12 place of work from the period of December 31st, 2018
13 through August 14th, 2019?

14 A Yeah.

15 Q But it doesn't reflect all of the purchases
16 that you've made from the vending machine ever;
17 right?

18 A Correct.

19 Q And you have since produced records dating
20 back to 2017?

21 A Yes.

22 Q But you have additional records that you have
23 not yet produced that post-date August 2019;
24 correct?

25 A Yes.

1 identification of people. I know people would use
2 it.

3 Q You know people use it. Do you know whether
4 anyone -- do you know -- sorry. Let me try that
5 again.

6 After you saw anyone use the machine since
7 you learned about the ten cents charge, did you
8 alert anyone that you saw using the machine about
9 the charge?

10 A I alerted people in the office space about
11 the charge.

12 Q Which people?

13 A They could be coworkers or just office mates.
14 Again, this was a co-working space, so I had people
15 from my job here to a general cohort of people.

16 Q Do you have an estimate as to how many people
17 you have told?

18 A Less than ten.

19 Q But more than two?

20 A More than two. Five is a guess.

21 Q And generally, what would you tell them?

22 A I would -- it would be very simple. I would
23 just tell them "the machine is overcharging."

24 Q Did anyone -- or what were the reactions of
25 people that you would tell this information to?

1 A Very rough estimate, 50, say.

2 Q And you think that you've told or spoken to
3 approximately ten of those 50 people about the
4 charge?

5 A Closer to five.

6 Q Closer to five. Sorry. Okay. Once you
7 learned of the credit card ten cent charge, did you
8 report it to anyone in your co-working space, the
9 owner of the space or anyone else?

10 A No.

11 Q Take a look at Jilek 22, please. It's the
12 last page in this document. Do you see the -- in
13 the picture, it says "World Wide Vending, For
14 Service Call," and it lists a number there?

15 A Uh-huh.

16 Q Sorry. "Yes" or -- we have to -- it's really
17 tough to remember, but we have to try to say "yes"
18 or "no" best we can.

19 A "Yes."

20 Q Did you ever call that number to inquire
21 about the ten cent charge?

22 A No.

23 Q Did you ever try to contact Compass any other
24 way about the charge?

25 A No.

1 Q And you see that there's an e-mail below that
2 number; right?

3 A Yes.

4 Q Did you ever send an e-mail to that e-mail
5 address?

6 A No.

7 Q Were you -- why didn't you reach out to
8 Compass?

9 A One, I have never reached out to a vending
10 machine phone number, ever. I've been mischarged
11 before, and I never reach out. And, of course, I
12 knew the lawsuit was ongoing.

13 Q You said you have been mischarged before.
14 What do you mean by that?

15 A So nothing to do with Compass, but, for
16 example, there's vending machines in an old
17 apartment I had, and I put money in, didn't get an
18 item and didn't report it.

19 Q Understood. Are you aware of any other
20 vending machines that charged you an extra amount to
21 use your credit card?

22 A No.

23 Q Okay. If you had to provide an estimate, how
24 many purchases do you think you made after the test
25 purchases to present day, from the vending machines

1 at your co-working space?

2 A Difficult to estimate, because it wouldn't
3 have been continuous. But ten.

4 Q And do you think those purchases are
5 episodic, like, you -- I think you told me your
6 early purchases were? Some months you would make
7 more purchases and other months you would make none?

8 A Yes.

9 Q Okay. I'm going to introduce another
10 document. This one is Jilek Exhibit 6.

11 (Exhibit 6 was marked for
12 identification.)

13 BY MS. MUELLER:

14 Q And I will represent to you that it is the
15 first Supplemental Answers and Objections to
16 interrogatories that Compass directed to you.

17 So take a look at this document. These are
18 the "First Supplemental Answers and Objections to
19 Defendant's First Interrogatories" that were
20 submitted on your behalf. And if you look at
21 Page 6, you will see that it's dated "April 13,
22 2022."

23 A Okay.

24 Q Mr. Jilek, are you familiar with the term
25 "interrogatory"?

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

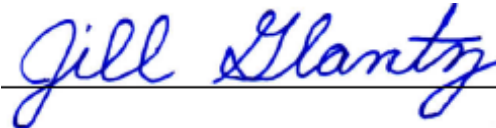
4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript {X} was { } was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21 Dated: Mary 25, 2023

22 
23

JILL GLANTZ

24 CSR No. 11341
25